

In the High Court of Uttaranchal, at Nainital.

Criminal Misc. Application No. 277/ 2001

(Old No. 1629 of 2000)

Prfulla Kumar Pant, Advocate,
S/o Late Chintamani Pant,
R/o Nayabazar, P.S. Kotwali,
District Pithoragarh

---- Applicant.

Versus

1- State of U.P.

2- Shyam Lal Arya

President of B.S.P.

Pithoragarh

.....Respondents.

Ms. B.S. Adhikari, Advocate for the appellant.

Sri P.S. Soan, learned Addl. G.A. for the State.

Hon'ble B.C. Kandpal, J.

This petition U/S 482 Cr.P.C. has been filed by the applicant for quashing the criminal proceedings of Sessions Trial No. 13 of 1997, U/Ss 505(2) I.P.C. and 3(1)(x) of S.C. and S.T. Act, pending in the court of Sessions Judge, Pithoragarh.

2- Brief facts of the case are that an article was published in the daily Newspaper, 'Dainik Jagaran' dated 22-4-1996, in which the interview of the petitioner to the correspondent of the Newspaper was published. After publication of the interview, respondent No.2 Shyam Lal Arya filed a complaint against the petitioner and on the basis of that complaint a first information report was registered against the petitioner at the Police Station.

3- The police investigated the matter and submitted the charge sheet against the petitioner. After the submission of the charge sheet the case was committed to the court of Sessions and the charge was accordingly framed against the petitioner by the court of Sessions.

4- The petitioner by way of the petition U/S 482 Cr.P.C. has sought the relief for quashing the entire proceedings of Sessions Trial, pending against him.

5- Heard learned counsel for the applicant, learned A.G.A. and perused the record.

6- Having considered the arguments advanced by the learned counsel for the petitioner, I do not find any abuse of process of the court. I also do not find that any mandatory provision of law has been violated by the court below. I am not supposed to embark upon the enquiry with regard to the credibility of the evidence at this stage. The evidence is yet to be collected by the learned Judge and on the basis of incomplete and hazy evidence, I am not supposed to act as a trial Judge. While exercising the jurisdiction U/S 482 Cr.P.C., I am not supposed to deliver a premature judgment, in which the evidence is yet to be adduced by the prosecution before the trial Judge. The disputed question of fact can be decided by the trial Judge and I do not find any ground to entertain this petition and also to stop the criminal proceeding before the court concerned.

7- The petition lacks merit and is liable to be dismissed.

8- Accordingly the petition is dismissed.

9- The lower court record be immediately returned back so that the trial may proceed further.

(B.C. Kandpal, J.)

Dated: 18-07-2006
ISB